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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/634,302	08/08/2000	Ramkumar Subramanian	E0796	5052

29393 7590 11/01/2002

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EXAMINER


ROSENBERGER, RICHARD A

ART UNIT	PAPER NUMBER
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2877

DATE MAILED: 11/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application N .		Applicant(s)	
	09/634,302		SUBRAMANIAN ET AL. 	
	Examiner		Art Unit	
	Richard A Rosenberger		2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: |

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 7 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoshiyama (US 5,644,399).

The systems of figure 1a, 3 and 6 of Hoshiyama shows an optical measuring device (image sensor 3) to view an object along an optical path and an optical indicia device (scale plate 4) located in the optical path. The scale plate 4 is transparent and has non-transparent indicia with a rectangular shape thereon. The structure of the scale plates inherently provide location information with respect to any observable feature of on the object, including defects.

4. Claims 1-16 rejected under 35 U.S.C. 103(a) as being unpatentable over Hoshiyama (US 5,644,399).

See above; any differences are matters of obvious design choice. Those in the art could, choose any suitable pattern for the scale, including alternate patterns such as a hexagonal pattern.

Those in the art could chose any lens system which is appropriate for the application at hand for imaging the article and the scale plate onto the image detector, including a microscope. Providing means to adjust and/or remove the scale plate would have been obvious; the embodiment of figure 6 of the reference shows that it is known that it is useful to be able to view the article without viewing the scale, which is the purpose of the shutter 8B. In systems in which the scale lies physically between the article and the sensor, the obvious and straightforward manner of achieving this desired result is to simple remove the scale plate.

5. Claims 17-22, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoshiyama (US 5.644,399) as applied to the claims above, and further in view of Biller et al (US 4,185,298), Wihl (US 4,633,504) and Hossain et al (US 6,067,154).

It is known in the art to compare two workpieces (see Billet et al) or two areas of a single workpiece (see Wihl) to determine the presence of errors. Using this comparison method with any defect measuring or locating system would have

been obvious because it is a general technique which does not depend upon the details of the defect detection of locating system.

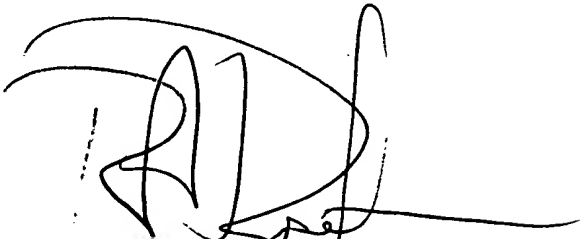
As discussed by Hossain et al, column 12, lines 9-23, it is known to use the presence of common defects on a plurality of objects to determine a cause of the defects in a manufacturing process. Using this known technique with the system above would have been obvious because it is the presence of the common defects, and not the manner of detecting them, that provides the useful information concerning cause.

6. Papers related to this application may be submitted to Group 2800 by facsimile transmission. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (15 November 1989). The fax number is (703) 308-7722.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. A. Rosenberger whose telephone number is (703) 308-4804.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

R. A. Rosenberger
30 October 2002



Richard A. Rosenberger
Primary Examiner